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PART III.

Legislative Measures and Rules thereunder.

REGULATION NO. III OF 1905.

THE MYSORE CO-OPERATIVE SOCIETIES REGULATION, 1905.

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Regulation No. III of 1905.

THE MYSORE CO-OPERATIVE SOCIETIES REGULATION, 1905.

(PASSED ON THE 28TH DAY OF JUNE 1905.)

A Regulation to provide for the constitution and control of Co-operative Societies in Mysore.

WHEREAS it is expedient to provide for the constitution and control of Co-operative Societies in Mysore; His Highness the Maharaja is pleased to enact to follows:—

Preliminary.

Short title extent and commencement.

1. (*1*) This Regulation may be called the Mysore Co-operative Societies Regulation, 1905.

(*2*) It extends to the whole of Mysore; and

(3) It shall come into force on the date of the passing thereof.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(*a*) "by-law" means a rule made by a society in the exercise of any power conferred by this Regulation or by any rule made under this Regulation:

(*b*) "committee" means the governing body of a society to whom the management of its affairs is entrusted:

(*c*) "member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules made under this Regulation:

(*d*) "officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the rules applying to any society or the by-laws thereof to give directions in regard to the business of the society:

(*e*) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Regulation: and

(*f*) "society" means a co-operative society registered under this Regulation.

Constitution.

Constitution and objects of societies.

3. A society shall consist of ten or more persons above the age of eighteen years, who have for their common object or objects some one or more of the following, namely :—

I. the furtherance of thrift and providence among the members ;

II. the attraction of capital and the grant of credit to the members ;

III. the supply to members of raw material, seed or manure ;

IV. the sale on behalf of members of agricultural produce or of manufactured goods ;

V. the manufacture of goods or growth of produce by the members co-operatively ;

VI. the purchase of food stuffs, clothing or other articles of consumption, or of animals, implements, or other stock required in agriculture or industry, and their retail sale to members ;

VII. the purchase of machinery and its use in common by members ;

VIII. the building of houses or purchase of lands for members ;

IX. the carrying out or development, by joint action, of an improvement whether agricultural or industrial ;

X. any other object, calculated to promote the economic benefit of the members, which may be approved by Government by special order in each case.

Members of society.

4. The members of a society shall be—

(*a*) persons joining in the application mentioned in section 6, sub-section (*1*), and registered as a society under sub-section (2) of the same section ;

(*b*) persons admitted by the society in accordance with the provisions of this Regulation and with the by-laws of the society :

Provided that a person so admitted shall not exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules made under this Regulation or the by-laws of the society.

Registration.

The Registrar.

5. The Government may appoint a person to be Registrar of Co-operative Societies for the whole or any portion of Mysore.

Registration and incorporation of societies.

6. (*1*) Any ten or more persons having for their common object or objects some one or more of those specified in section 3, and agreeing each to make such payment or acquire such interest as aforesaid, may apply to the Registrar to be registered as a society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the proposed society as the Registrar may require.

(*2*) If the Registrar is satisfied that the persons proposing to form a society have complied with the provisions of this Regulation and with the rules made thereunder, he may, if he thinks fit, register the society accordingly, and the society shall thereupon become and be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, moveable or immoveable, to enter into contracts, to institute and defend civil suits and to do all things necessary for the purposes of its constitution.

(*3*) Every society shall have an address, registered in accordance with the rules made under this Regulation, to which all notices and communications may be sent.

(*4*) If the liability of the members of a society is limited, the word "limited" shall be added to its registered name.

5 No charge shall be made for registration under this section.

Management.

7 The liability of each member of a society for the debts of the society shall be unlimited or limited as may be provided by the by-laws or by any rules made under this Regulation.

Liability of members.

8 Not less than one-fourth of the profits in each year of every society, unless otherwise directed by Government by special order in any particular case, shall be carried to a fund (to be called the reserve fund) before any dividend or payment on account of profits is paid to the members or any of them.

Disposal of profits.

9. A society may receive deposits from members without restriction, but it may borrow from persons who are not members only to such extent and under such conditions as may be provided by its by-laws or by rules made under this Regulation.

Restrictions on borrowing.

10 (1) A society shall make no loan to any person other than a member :

Restrictions on loans.

Provided that, with the consent of the Registrar, a society may make loans to any other society.

(2) The Government may, by general or special order, prohibit or restrict the lending of money on the security of moveable or immoveable property or any kind thereof by any society or class of societies.

11. A society may deposit its funds in the Government Savings Bank or with any banker or person acting as a banker approved for this purpose by the Registrar.

Deposit of society's funds.

Shares and Interests of members.

12. Where the liability of the members of a society is limited by shares, a member shall not hold more than such portion of the capital of the society, subject to a maximum of one-fifth, as may be prescribed by any rules made under this Regulation :

Limit on capital held by member.

Provided that no member of such a society shall without express sanction of the Government hold more shares than represent a nominal value of one thousand rupees.

13. (1) Where the liability of the members of a society is not limited by shares, each member shall, notwithstanding the amount of his interest in the capital, only have one vote as a member in the affairs of the society.

Votes of members.

(2) Where the liability of the members of a society is limited by shares, each member shall have as many votes as may be prescribed by the by-laws of the society.

14. (1) A member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless he has held such share or interest for one year at least.

Restrictions on transfer of share or interest.

(2) The share or interest of a member in the capital of a society shall not be transferred or charged, unless to the society or to a member of the society and subject to any conditions as to maximum holding prescribed by this Regulation or by the by-laws or by any rules made under this Regulation.

15. Subject to the provisions of section 20, the share or interest of a member in the capital of a society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure shall be entitled to or have any claim on such share or interest.

Shares or interest not liable to attachment.

16. On the death of a member, the society may pay to or transfer to the credit of the person nominated in accordance with the rules made in this behalf, or if there is no person so nominated, such person as may appear to the Committee to be entitled to receive the same as heir or legal representative of the deceased mem-

Transfer of interest on death of member.

ber a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws and all moneys due to him from the society, and the society shall thereupon be absolved from all liability in respect of such share or interest or other moneys as aforesaid.

Liability of past member

17. The liability of a past member for the debts of the society as they existed at the time when he ceased to be a member shall continue for a period of one year from the date of his ceasing to be a member.

Liability of the estate of deceased member.

18. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of the society as they existed at the time of his decease.

Priority of Society's claim against a member.

Prior claim of society as against crops, agricultural produce, cattle, implements and raw material.

19. Subject to any prior claim of the Government in respect of land-revenue or any money recoverable as land-revenue or of a landlord in respect of rent or any money recoverable as rent, a society shall be entitled in priority to other creditors to enforce its claim—

(*a*) upon the crops or other agricultural produce of a member or past member at any time within a year from the date when seed or manure was advanced or money for the purchase of seed or manure was lent to such member or past member in respect of the unpaid portion of such advance or loan;

(*b*) upon any cattle, agricultural or industrial implements or raw material for manufactures, supplied by the society or purchased in whole or in part with money lent by the society, in respect of the outstanding liability on account of such supply or loan.

Charge and set-off in respect of shares or interest of member.

20. A society shall have a charge upon the shares or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set-off any sum credited or payable to a member or past member in or towards payment of any such debt.

Audit, Inspection and Inquiry.

Audit, inspection and inquiry.

21. (1) The Registrar shall audit the accounts of each society once at least in every year.

(2) No charge shall be made in respect of any audit made under sub-section (1).

(3) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(4) The Registrar, the Deputy Commissioner or any person authorised in this behalf by the Registrar or the Deputy Commissioner may at any time inspect the books, accounts, papers and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection shall require.

(5) The Registrar may of his own motion, and shall on the request of the Deputy Commissioner or on the application of a majority of the Committee or of not less than one-third of the members, hold an inquiry into the constitution, working and financial condition of a society, and all officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar may require.

(6) Where an inquiry is held under sub-section (5), the Registrar may apportion the costs, or such part of the costs as he may think right, between the society, the members demanding an inquiry and the officers or former officers of the society.

(7) Any sum awarded by way of costs under sub-section (6) may be recovered on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable resides for the time being, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person.

Mode of proof of entries in societies' books.

22. A copy of any entry in a book of a society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by rules made under this Regulation, be received in any suit to recover a debt due to the society, as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Dissolution of a Society.

Dissolution.

23. (*1*) If the Registrar, after holding an inquiry under section 21, sub-section (*5*), or on receipt of an application made by three-fourths of the members of a society, is of opinion that a society ought to be dissolved, he may cancel or may refuse to cancel the registration of the society.

(*2*) Any member of a society may, within two months from the date of any order made under sub-section (*1*), appeal from such order to the Government.

(*3*) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period. Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Government.

(*4*) Where an order made under sub-section (*1*) cancelling the registration of a society takes effect, the society shall cease to exist as a corporate body.

Cancellation of registration of society.

24. (*1*) Where the registration of a society is cancelled under section 23, the Registrar may appoint a competent person to be liquidator of the society.

(*2*) A liquidator appointed under sub-section (*1*) shall have power to institute and defend suits on behalf of the society by his name of office, and shall also have power—

(*a*) to sue for and recover any sums of money due to the society at the date of such cancellation;

(*b*) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society;

(*c*) to investigate all claims against the society, and, subject to the provisions of this Regulation, to decide questions of priority arising between claimants;

(*d*) to determine by what persons and in what proportions the costs of the liquidation are to be borne; and

(*e*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society.

(*3*) Subject to any rules of procedure made under this Regulation, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

(*4*) The rules may provide for an appeal to the Court of the District Judge from any order made by a liquidator under this section.

(*5*) Orders made under this section may be enforced as follows :—

(*a*) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as the decree of such Court;

(*b*) when made by the Court of the District Judge in the matter of any such appeal as aforesaid, in the same manner as a decree of such Court made in any suit pending therein.

(6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect to any matter connected with the dissolution of a society under this Regulation.

Exemptions from Taxation.

25. (1) The Government, by notification in the official Gazette, may in the case of any society or class of society, remit—

Power to exempt from taxation, stamp duty and registration fees.

(a) any tax payable to Government or to a Municipal or Local Board in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits, or otherwise;

(b) the stamp-duty with which, under any law for the time being in force instruments executed by or on behalf of a society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable;

(c) any fee payable under the law of registration for the time being in force.

(2) A notification exempting any society from the fees referred to in sub-section (1), clause (c), may provide for the withdrawal of such exemption.

Debts due to Government.

26. (1) All sums due from a society or from an officer or member or past member of a society as such to the Government, including any costs awarded to the Government, under section 21, sub-section (6), may be recovered in the same manner as arrears of land-revenue.

Recovery of sums due to Government.

(2) Sums due from a society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; and, thirdly, in the case of other societies, from the members.

Rules.

27. (1) The Government may, for the whole or any part of Mysore and for any society or class of societies, make rules to carry out the purposes of this Regulation.

Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the forms to be used in applying for the registration of a society and the procedure in the matter of such applications;

(b) prescribe the conditions to be complied with by persons applying for registration and by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the amount of payment to be made and interests to be acquired before exercising rights of membership;

(c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled and for the liabilities of past members;

(d) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;

(e) subject to the provisions of section 12, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(f) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent to an individual member;

(g) regulate the manner in which capital may be raised by means of shares or debentures or otherwise;

(*h*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(*i*) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;

(*j*) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the sanction to be required to such making, alteration or abrogation;

(*k*) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society;

(*l*) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;

(*m*) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;

(*n*) provide for the rate at which interest may be paid on deposits, for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society;

(*o*) provide that any dispute touching the business of a society between members or past members of the society or persons claiming through a member or past member, or between a member or past member or persons so claiming and the Committee or any officer shall be referred to the Registrar for decision, or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;

(*p*) prescribe the conditions to be complied with by a society applying for the financial assistance of Government; and

(*q*) determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Regulation.

(5) A copy of the rules relating to a society and of the by-laws thereof for the time being in force shall be kept open to inspection at all reasonable times free of charge at the registered address of the society.

Miscellaneous.

Mysore Companies Regulation, 1895, not to apply.

28. The provisions of the Mysore Companies Regulation, 1895, shall not apply to societies registered under this Regulation.

P. N. KRISHNA MURTI,
Dewan of Mysore.